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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,651	06/27/2003	Theodore Kenneth Tezak	41989.001	2640

7590 10/04/2004

Intellectual Property Department
DEWITT ROSS & STEVENS S.C.
US Bank Building
8000 Excelsior Drive Suite 401
Madison, WI 53717-1914

EXAMINER

WILKENS, JANET MARIE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,651

Applicant(s)

TEZAK, THEODORE KENNITH

Examiner

Janet M. Wilkens

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 11-13, 15, 16 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 5-10, 14, 17 and 21 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/27/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Attachment A.

Information Disclosure Statement

The information disclosure statement filed June 27, 2003 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because no website pages/publication corresponding to the non-patent literature document listing was submitted along with the IDS. The information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Specification

The disclosure is objected to because of the following informalities: on page 3, line 15, "Fig. 3" should be "Fig. 2" and on page 3, line 18, "Fig. 2" should be "Fig. 3". Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 11, 12, 15, 16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eiler in view of Duarte. Eiler teaches a tire used in combination with a speaker cabinet/enclosure (see Fig. 1). For claims 1, 15 and 19, Eiler fails to teach a shelving unit inside the tire. Duarte teaches a round cabinet with transparent shelves therein (see Fig. 1), a transparent front panel (see Fig. 1), side walls (side portions of the cabinet), and a removable back panel (see Fig. 3) thereon (the outer rim of the back panel not being removable). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tire assembly of Eiler by inserting the cabinet of Duarte therein (the dimensioning of the cabinet of Duarte naturally being made to correspond to the inside of the tire; see Attachment A), in place of the cabinet/enclosure presently inserted therein, depending on the intended use of the tire. The cabinets being functional equivalents; the tire providing a distinct aesthetic property to the speaker cabinet of Eiler and therefore, would provide the same benefit to the cabinet of Duarte. Note: Portions of the shelves would inherently be covered by the tire sidewalls when the cabinet of Duarte is inserted into the tire. Furthermore, it would have been an obvious design consideration to use just a portion of the tire in combination with shelving/cabinet, depending on personal preferences, for economic reasons, etc.

For claim 4, although it appears that the shelves of Duarte extend to the back panel and are attached to the side walls of the cabinet, it is unclear whether or not they are attached to the back panel; however, it would be obvious to add adhesive between

the outer rim of the back panel and the shelves to secure these members to each other, to, along with the side walls, firmly hold the shelves in place.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eiler in view of Duarte as applied to claims 1-4, 11, 12, 15, 16, and 18-20 above, and further in view of Baus. As stated above, Eiler in view of Duarte teach the limitations of claim 1, including a shelving unit in a tire. For claim 13, Eiler in view of Duarte fails to teach lighting as part of the unit. Baus teach lighting as part of a cabinet (see Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the cabinet of Eiler in view of Duarte by adding lighting, such as is taught by Baus therein (at the upper and/or bottom sections thereof), to provide a means to illuminate objects placed on the shelves, etc.

Allowable Subject Matter

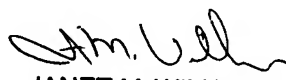

Claims 5-10, 14, 17 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkins
September 29, 2004


JANET M. WILKENS
PRIMARY EXAMINER


Attachment A

U.S. Patent

Jul. 31, 2001

Sheet 1 of 2

US D445,778 S

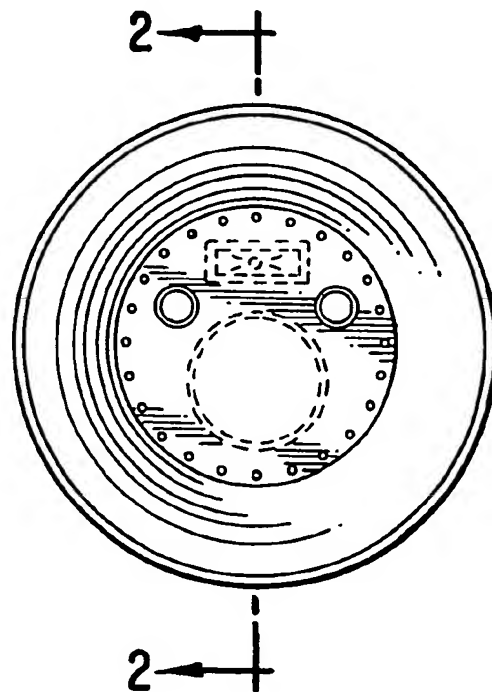


FIG. 1

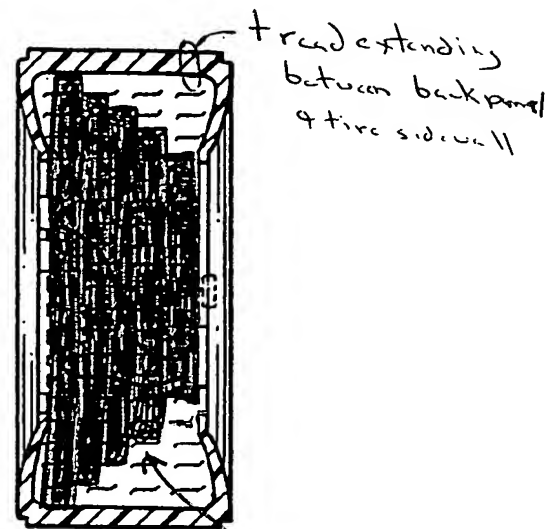


FIG. 2

shelving unit/cabinet of Duarte

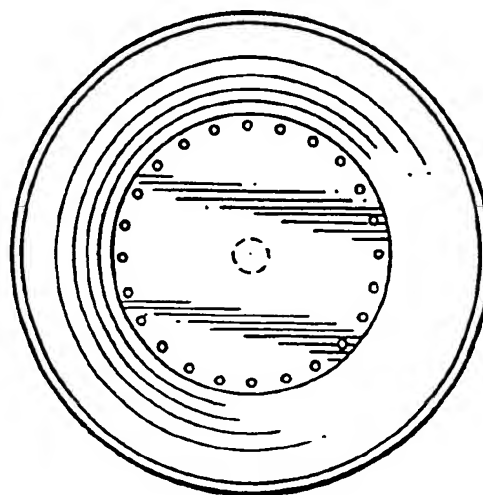


FIG. 3